

NOTICE

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2019 IL App (4th) 180477-U

NO. 4-18-0477

**FILED**  
September 5, 2019  
Carla Bender  
4<sup>th</sup> District Appellate  
Court, IL

IN THE APPELLATE COURT  
OF ILLINOIS  
FOURTH DISTRICT

<i>In re</i> MARRIAGE OF	)	Appeal from the
BLAINE M. BEDOLLI,	)	Circuit Court of
Petitioner-Appellant,	)	Sangamon County
v.	)	No. 14D579
LEANNE BEDOLLI,	)	
Respondent-Appellee.	)	Honorable
	)	Christopher G. Perrin,
	)	Judge Presiding.

JUSTICE HARRIS delivered the judgment of the court.  
Presiding Justice Holder White and Justice Steigmann concurred in the judgment.

**ORDER**

¶ 1 *Held:* The trial court did not err in denying petitioner’s motion to modify his child support and maintenance obligations.

¶ 2 In June 2015, the trial court dissolved the marriage of petitioner, Blaine M. Bedolli, and respondent, Leanne Bedolli. The court ordered Blaine to pay child support and maintenance to Leanne. In June 2017, Blaine filed a motion to modify his child support and maintenance obligation based on a reduction in his income. On June 11, 2018, the court denied the motion. On appeal, Blaine argues the trial court erred in denying his motion because (1) his reduction in income was not voluntary and (2) alternatively, even if the reduction was voluntary, it was done in good faith. We affirm.

¶ 3 I. BACKGROUND

¶ 4 Leanne and Blaine married in September 1998. During the marriage, they had four children: J.B. (born February 5, 1999), A.B. (born February 23, 2001), I.B. (born January 20, 2009), and M.B. (born December 4, 2014). Leanne had one child, D.S., from a prior relationship. Throughout the marriage, Blaine worked for his parents' business, Gary Bryan Kitchens and Baths ("the company"). Leanne did not work during the marriage, and she cared for Blaine while he had cancer.

¶ 5 In June 2015, the trial court entered a judgment of dissolution of marriage. It awarded the parties joint custody of their four children. Blaine was ordered to pay \$1285 per month in child support, which would increase to \$1435 per month once he completed repayment of a loan. Blaine was also ordered to pay Leanne \$632 per month as maintenance.

¶ 6 On June 17, 2016, Leanne filed a petition of intent to relocate to Florida, which was where the parties had previously resided for part of their marriage. Leanne also filed a petition to modify support, stating there had been a substantial change in circumstances based on the needs of the children and a purported increase in Blaine's earnings.

¶ 7 On December 6, 2016, a stipulation was entered in which the parties agreed that, if Leanne was allowed to relocate to Florida, maintenance would be modified to \$1975 per month beginning on June 17, 2016, and it would later be reduced to \$1500 per month beginning on February 1, 2017, through August 31, 2026. Child support would be modified to \$900 per month on June 17, 2016, and child support would later be reduced to \$500 per month on February 1, 2017, to reflect Leanne's anticipated return to work once she relocated to Florida.

¶ 8 The stipulation further provided that the maintenance and child support calculations "assume Leanne has a job that pays \$27,000 per year which is the approximate

starting salary at Coastal Ambulance and Blaine's anticipated 2016 gross income of \$79,000." The stipulation stated that, "[p]rior to August 31, 2026, Blaine's maintenance obligation can be modified or terminated in accordance with statutory changes in either party's circumstances." The stipulation also provided that the parties would continue to split medical and dental expenses, in addition to other expenses related to the children. Leanne would pay for childcare expenses for I.B. and Blaine would pay half of I.B.'s private school tuition. The parties also stipulated that Blaine was declared not to be the father of M.B.

¶ 9 On December 30, 2016, the court granted Leanne's petition to relocate to Florida with I.B. The court found that Leanne's job opportunities would improve in Florida because Leanne was licensed to practice as a paramedic there. The court noted that if Leanne remained in Illinois, she would be required to complete 600 hours of clinical work and two additional years of college.

¶ 10 On June 21, 2017, Blaine filed a motion to modify maintenance and child support. In his motion, Blaine stated that his income had been reduced to \$30,000 per year with no commissions and, as a result, he could no longer satisfy his maintenance and child support obligations.

¶ 11 On August 7, 2017, Leanne filed a motion to modify allocation of parental responsibilities. In her motion, she stated that Blaine took a voluntary pay cut and he was not paying child support for A.B. even though A.B. was residing with Blaine's parents. Blaine also filed an "emergency petition to modify parenting time and vacate memorandum of understanding," citing alleged issues with I.B.'s safety in Leanne's home.

¶ 12 On December 20, 2017, the trial court conducted a hearing on Blaine's motion to

modify maintenance and child support. Mario Perrino, the accountant for the company, testified that he had served as the company's accountant for at least 20 years. He stated that, for "the past ten years or so, it's been financially difficult for the company." Perrino explained, at the time of the hearing, they were "trying to get the IRS to accept [their] payment plan" for "taxes owed for a number of years." Perrino further explained that "there were three prior installment agreements that were not fulfilled by the company" and "this was our last \*\*\* shot that we had [with] the IRS to get them to accept an installment agreement. Otherwise, they were ready to close the company down." In addition, he testified that the company owed payments to the Illinois Department of Employment Security.

¶ 13 Perrino testified that "by far, payroll was the largest expense." He explained that the company "had to reduce \*\*\* payroll down to \*\*\* [show] enough cash flow to be able to meet [the] next [IRS] installment obligation" in June 2017. Perrino testified that there was "going to be at least a ten percent [cut] across the board" and "[i]f that wasn't sufficient, there [were] going to be additional cuts \*\*\* to get to that positive cash flow \*\*\*." However, Perrino acknowledged that he did not know "whose salary was cut[,]" or "what those numbers were \*\*\*." He stated that he also did not know what Blaine currently earned at the time of the hearing.

¶ 14 Kelly Bedolli, Blaine's wife, testified that she lived in Petersburg, Illinois with Blaine and her two sons from a prior relationship. Kelly testified that she had been unemployed since August 2017 and, prior to that, she had worked for 11 years as the chief financial officer for an irrigation manufacturing business.

¶ 15 In May 2017, Kelly became more involved in the "financial dealings" of the company at the request of Blaine's parents because they "felt that the IRS was preparing to shut

them down.” Although Perrino prepared the tax statements for the company, Kelly explained that Perrino was not involved in the “day-to-day responsibility” of “the books” at the company, which were “roughly six months behind.”

¶ 16 Kelly testified that there were times in the past when the company had sales totaling “well over \$2 million.” However, after the 2008 recession, the company never recovered. According to Kelly, by May 2017, the company had defaulted on a third or fourth “payment agreement with the IRS \*\*\*.” She testified that the company owed a debt of approximately \$625,000 to the IRS; an \$875,000 small business loan; and a \$200,000 debt owed to the Illinois Department of Employment Security.

¶ 17 In June 2017, when Kelly met with the IRS, the primary changes proposed related to the company’s payroll because it was the largest expense. Kelly stated that Blaine was “making substantially more than \*\*\* any other employee in that building” and he took a “\$48,000ish pay cut” and he “receives a salary only.” Kelly explained that Blaine would earn around \$38,000 in the same type of position if he worked elsewhere.

¶ 18 Kelly testified that Blaine’s sister, who worked part-time at the company, went from earning “\$25,000ish a year” to approximately \$2000 or \$3000 in commissions without a salary. Blaine’s parents had “already gone to no salary” while the production manager took a 10 % pay cut.

¶ 19 According to Kelly, “what came out of that [June 2017] IRS meeting was that [the company] absolutely couldn’t miss another tax payment.” As a result, in October 2017, the company “laid off” factory employees and then went from approximately 17 or 18 employees down to about 5 employees with “a couple of commission-only employees.” She testified that

the company also adopted a four-day workweek and canceled life insurance policies. Kelly explained that she was working for the company without pay while receiving unemployment benefits and child support. She also had a “small savings account” and “cashed in a 401(k).”

¶ 20 Blaine testified next. He stated that he worked for his family’s company as a cabinet designer and he had worked there for most of his life. In 2015 he earned \$88,000; in 2016 he earned “just under” \$78,000; and in June 2017 his salary was reduced to \$30,000 without commissions.

¶ 21 Blaine acknowledged that he could work at another company. However, based on his research, he would earn “essentially the same amount” if he worked elsewhere. Blaine further explained that his educational background was in information technology and “a lot of that is out of date.” He stated that he would start at an entry level position and he would earn “the same [amount] that [he] [is] making now or less.”

¶ 22 Blaine testified that when Leanne was granted permission to relocate to Florida, he was granted custody of A.B. because A.B. wanted to finish high school in Springfield, Illinois. Blaine testified that he purchased a second home in Springfield in March 2017. When asked how he could afford to purchase a second home, Blaine stated, “Well, it’s not easy. We made a lot of cuts.” Blaine also explained that, at the time he purchased the second home, Blaine did not realize his income was going to be reduced. He stated that the house in Springfield was currently vacant.

¶ 23 According to Blaine, his second home in Springfield was “part of [his] support for [A.B.]” Blaine acknowledged that A.B. currently lived with Blaine’s parents because A.B. “was not well behaved at [Blaine and Kelly’s] house.” Blaine also testified that he paid \$380 for I.B.’s

child support. When asked why he had not paid the full child support amount during various months, Blaine explained that he was “allowed to deduct for \*\*\* [I.B.’s] private school” tuition. He also testified that he had sent another check to Leanne for the remaining amount of child support that morning of the hearing. Blaine testified he was paying his share of child support with a savings account and a 401(k) but “those funds [were] currently \*\*\* close to being depleted[.]”

¶ 24 Leanne testified that she believed Blaine had taken a “voluntary pay cut” when he owed her maintenance and child support. Leanne stated that Blaine took the pay cut “for his new wife” who was “taking over the books” at the company so Leanne would “never get a penny \*\*\*.” Leanne testified that “[she] just find[s] the whole thing rather fishy[,] that it’s a family business[,] [i]t’s always had problems[,] [and] [Blaine]’s always been able to make [a] salary.”

Leanne further testified as follows:

“[W]e were married for a long time. I dropped out of my nursing school because he was sick with cancer. And I gave up my entire livelihood for him. I did a lot [of] caretaking [for] \*\*\* many years, all while taking care of my children as well. And I never got to go back to school because of his illnesses and stuff like that. And so the reality is, I depended on this money, \*\*\* I gave up my livelihood for him, \*\*\* now \*\*\* I can’t make my bills[,] \*\*\* [and] I’m waiting tables. I’m trying to just keep up.”

¶ 25 Leanne testified that the trial court had recently granted Blaine a “drastic maintenance reduction.” Further, she testified that Blaine had a degree in information technology and he could earn more by working elsewhere instead of reducing his current income.

¶ 26 At the time of the hearing, Leanne paid rent of \$1200 per month for a three bedroom apartment in Florida where she resided with I.B. and M.B. She testified that, when the trial court granted her petition to relocate to Florida, she originally had a “day job lined up” but by the time she moved to Florida several months later, the job would have required her to work 15-hour shifts and she could not afford to pay for childcare during those hours. Leanne explained that although she was a certified paramedic in Florida, the hours for paramedics were only in the evenings and the babysitter who was initially supposed to help her care for the children unexpectedly had to assist her ailing parents in another state. Leanne testified that she was actively applying for “day jobs” in Florida.

¶ 27 Leanne testified that she did not work in 2015 or 2016. However, she had been working as a waitress at Robo Enterprises and Olive Garden since July 2017. The court took judicial notice of Leanne’s taxable gross income of \$641.98 for one week of work in November 2017.

¶ 28 On June 11, 2018, the trial court entered an order denying Blaine’s motion to modify maintenance and child support. Blaine was ordered to continue paying monthly maintenance in the amount of \$1500 and child support in the amount of \$500 per month. In reaching its decision, the trial court stated that Blaine “voluntarily chooses to continue to work at Gary Bryan Kitchens [and] Baths at a substantially reduced salary, rather than find alternate employment paying him what he is capable of earning.” The court stated that “Blaine appears to be more concerned about helping his parent’s [sic] business to pay its’ [sic] debts rather than paying his own court ordered child support and maintenance obligations.” The court noted the company reduced its workforce from “18 to [5]” employees and opined that, “[w]ith fewer



employees doing more work, one could argue that the remaining employees would be earning more not less income.”

¶ 29 The trial court stated that, according to Blaine and Kelly, Blaine took a 61% pay cut while other employees “across the board” took only a 10% pay cut. The court found the testimony of Blaine and Kelly to be “incredible and self-serving.” The court further stated that, apart from Blaine and Kelly’s testimony, “no independent evidence” was presented regarding Blaine’s \$49,000 reduction in income. The court found that Blaine had not met his burden of proving that his reduction in income was in good faith and, instead, it was “prompted by a desire to evade [his] financial responsibilities for those dependent on him \*\*\*.” The court concluded that Blaine had not met the threshold burden of showing a change in circumstances sufficient to warrant modification of his support obligation.

¶ 30 This appeal followed.

¶ 31 II. ANALYSIS

¶ 32 On appeal, Blaine argues the trial court erred in denying his motion because (1) his reduction in income was not voluntary and (2) alternatively, even if the reduction was voluntary, it was done in good faith. Leanne has not filed a brief in this appeal. However, where, as here, the record is simple and the issue is such that it can be decided without the aid of an appellee’s brief, we will decide the merits of the appeal. *First Capitol Mortgage Corp. v. Talandis Construction Corp.*, 63 Ill. 2d 128, 133, 345 N.E.2d 493, 495 (1976).

¶ 33 Section 510(a)(1) of the Illinois Marriage and Dissolution of Marriage Act (the Act) provides that an order for child support and maintenance may be modified “upon a showing of a substantial change in circumstances[.]” 750 ILCS 5/510(a)(1), (a-5) (West 2016). A

“substantial change in circumstances \*\*\* means that either the needs of the spouse receiving maintenance or the ability of the other spouse to pay that maintenance has changed.” *In re marriage of Shen*, 2015 IL App (1st) 130733, ¶ 132, 35 N.E.3d 1178. “The party seeking modification bears the burden of establishing a substantial change of circumstances.” *Id.*

¶ 34 In the context of a proceeding to modify maintenance, courts consider the following factors pursuant to section 504(a) that are also considered in the first instance in awarding maintenance:

“(1) the income and property of each party, including marital property apportioned and non-marital property assigned to the party seeking maintenance as well as all financial obligations imposed on the parties as a result of the dissolution of marriage;

(2) the needs of each party;

(3) the realistic present and future earning capacity of each party;

(4) any impairment of the present and future earning capacity of the party seeking maintenance due to that party devoting time to domestic duties or having forgone or delayed education, training, employment, or career opportunities due to the marriage;

(5) any impairment of the realistic present or future earning capacity of the party against whom maintenance is sought;

(6) the time necessary to enable the party seeking maintenance to acquire appropriate education, training, and employment, and whether that party is able to

support himself or herself through appropriate employment or any parental responsibility arrangements and its effect on the party seeking employment;

(7) the standard of living established during the marriage;

(8) the duration of the marriage;

(9) the age, health, station, occupation, amount and sources of income, vocational skills, employability, estate, liabilities, and the needs of each of the parties;

(10) all sources of public and private income including, without limitation, disability and retirement income;

(11) the tax consequences to each party of the property division upon the respective economic circumstances of the parties;

(12) contributions and services by the party seeking maintenance to the education, training, career or career potential, or license of the other spouse;

(13) any valid agreement of the parties; and

(14) any other factor that the court expressly finds to be just and equitable.” 750 ILCS 5/504 (West 2016).

¶ 35 Further, section 510(a-5) of the Act sets forth the following factors to be considered in determining whether an award of maintenance should be modified:

“(1) any change in the employment status of either party and whether the change has been made in good faith;

(2) the efforts, if any, made by the party receiving maintenance to become self-supporting, and the reasonableness of the efforts where they are appropriate;

(3) any impairment of the present and future earning capacity of either party;

(4) the tax consequences of the maintenance payments upon the respective economic circumstances of the parties;

(5) the duration of the maintenance payments previously paid (and remaining to be paid) relative to the length of the marriage;

(6) the property, including retirement benefits, awarded to each party under the judgment of dissolution of marriage, judgment of legal separation, or judgment of declaration of invalidity of marriage and the present status of the property;

(7) the increase or decrease in each party's income since the prior judgment or order from which a review, modification, or termination is being sought;

(8) the property acquired and currently owned by each party after the entry of the judgment of dissolution of marriage, judgment of legal separation, or judgment of declaration of invalidity of marriage; and

(9) any other factor that the court expressly finds to be just and equitable.”

750 ILCS 5/510(a-5) (West 2016).

¶ 36 Generally, “[u]nless good faith is shown, a voluntary termination of employment by a supporting spouse is not considered a material change in circumstances sufficient to warrant abatement or modification of support obligations.” *In re Marriage of Ross*, 355 Ill. App. 3d 1162, 1166, 824 N.E.2d 1108, 1113 (2005) (citing *In re Marriage of Dall*, 212 Ill. App. 3d 85,

95-96, 569 N.E.2d 1131, 1137-38 (1991). “A voluntary change in employment which results in diminished financial status may constitute a substantial change in circumstances if undertaken in good faith.” *In re Marriage of Barnard*, 283 Ill. App. 3d 366, 369, 669 N.E.2d 726, 729 (1996). “In determining whether an individual acts in good faith in changing employment, the trial court looks at whether the change was driven by a desire to evade financial responsibility for supporting the children.” *Id.* “While proof [of] \*\*\* a motive to evade financial responsibility for the support of [the] children may defeat a showing of good faith, the converse is not true—the absence of such evidence does not, without more, establish \*\*\* good faith.” *In re Marriage of Imlay*, 251 Ill. App. 3d 138, 142-43, 621 N.E.2d 992, 995 (1993).

¶ 37 On review, this court will not disturb the trial court’s decision to grant or deny a petition to modify an award of support or maintenance absent an abuse of discretion. *Id.* at 140; *In re Marriage of Heroy*, 2017 IL 120205, ¶ 24, 89 N.E.3d 296. An abuse of discretion occurs when “the trial court’s ruling is arbitrary, fanciful, unreasonable, or where no reasonable person would take the view adopted by the trial court.” (Internal quotation marks omitted.) *Id.*

¶ 38 Here, it was Blaine’s burden, as the moving party, to establish that a substantial change in circumstances occurred—*i.e.* that Blaine’s reduction in income was not voluntary and, if it was voluntary, that it was done in good faith.

¶ 39 As stated, Blaine argues his income reduction was not voluntary; specifically, he maintains it was “part of a plan” to satisfy the company’s debts and “keep the [c]ompany up and running.” Blaine further contends he was the highest paid employee; employees who only took “10% cuts were making less than or near \$12 [per] hour[;]” and Blaine’s parents and sister “went to \$0 salary” while “others were laid off entirely.”

¶ 40 The trial court stated that Blaine “voluntarily cho[se] to continue to work at Gary Bryan Kitchens [and] Baths at a substantially reduced salary, rather than find alternate employment paying [Blaine] what he is capable of earning.” Indeed, Blaine testified that he had a degree in information technology and he acknowledged that he “could work at another job.” We find the evidence supports the trial court’s finding that Blaine’s pay cut was voluntary.

¶ 41 Blaine alternatively argues that even if his income reduction was voluntary, the trial court erred in finding it was not done in good faith. Blaine maintains he presented sufficient evidence of his reduction in income, stating he took a 61% pay cut (from about \$78,000 down to \$30,000) while other employees “across the board” only took a 10% pay cut. Kelly also testified that Blaine accepted a pay cut of around \$48,000. However, the court found the testimony of Blaine and Kelly to be “incredible and self-serving.” We decline to second-guess the court’s credibility determination. See *In re Marriage of Anderson*, 409 Ill. App. 3d 191, 199, 951 N.E.2d 524, 532 (2011) (“[I]t is well established that the credibility of the witnesses and weight to be given to their testimony is for the trier of fact to decide, and a reviewing court may not substitute its judgment for that of the fact finder.”). Apart from Blaine and Kelly, only Perrino testified to the company’s pay cuts “across the board” and he did not specifically testify to *Blaine’s* reduction in income. Perrino testified that he did not know “those numbers” or what Blaine “currently earn[ed].” The trial court noted that despite the “drastic blow to his income,” Blaine continued to work for the same company operated by his parents instead of seeking work elsewhere to pay his child support and maintenance obligations.

¶ 42 The trial court noted that, aside from Blaine’s testimony and that of his wife, “there was no independent evidence that Blaine’s income ha[d] been reduced by \$49,000.”

Blaine disagrees, suggesting that he presented his pay stubs for the period from June 2017 through December 1, 2017, in his written closing argument to the court. Blaine argues the pay stubs “clearly show no commissions paid to him, and a reduced salary paid to him during that period.” As stated, Blaine acknowledges the pay stubs were only provided to the court in his written closing argument. However, there is no indication the pay stubs were ever admitted as evidence in this case, nor does Blaine explain how the court could have otherwise considered them in its decision. *Jill Knowles Enterprises, Inc. v. Dunkin*, 2017 IL App (2d) 160811, ¶ 21, 80 N.E.3d 743 (“It is generally true that a document must be offered by its proponent and admitted into evidence by the trial court before it may be considered as evidence.”).

¶ 43               Based on the above, we cannot say the trial court’s denial of Blaine’s motion to modify his support and maintenance obligation was an abuse of discretion.

¶ 44    **III. CONCLUSION**

¶ 45               For the reasons stated, we affirm the trial court’s judgment.

¶ 46               **Affirmed.**